

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 21-CR-216-JFH

MATTHEW WAYNE MARTIN,

Defendant.

OPINION AND ORDER

Before the Court are an application to proceed in forma pauperis (“IFP Motion”) [Dkt. No. 33] and a motion for downward departure from sentencing guidelines (“Sentencing Motion”) [Dkt. No. 32] filed by Defendant Matthew Wayne Martin (“Defendant”). For the reasons stated, the IFP Motion is GRANTED and the Sentencing Motion is DENIED.

Defendant was sentenced on November 17, 2022. Dkt. No. 31. The two Motions were filed on November 30, 2023, just over a year later. Dkt. No. 32; Dkt. No. 33. The Sentencing Motion requests the Court grant a downward departure under the United States Sentencing Guidelines in order to run Defendant’s federal term of imprisonment concurrent with, rather than consecutive to, Oklahoma state time he is currently serving. Dkt. No. 32 at 1.

The Sentencing Guidelines provide mechanisms for the Court to depart from a defendant’s applicable guideline range at a defendant’s sentencing hearing, either sua sponte or based upon a motion from either party. However, once a sentence is imposed, it is final. A district court is limited by statute on the grounds that can be considered in amending an otherwise legal conviction and sentence, and none of these grounds has been presented by Defendant. *See* 18 U.S.C. §§ 3582(b)-(c). The Court therefore lacks jurisdiction to modify Defendant’s sentence. *United States v. Graham*, 704 F.3d 1275, 1277 (10th Cir. 2013) (“Federal courts generally lack jurisdiction to

modify a term of imprisonment once it has been imposed.”), *abrogated on other grounds*; *United States v. Smartt*, 129 F.3d 539, 542 (10th Cir. 1997) (holding that because the defendant's motion for a sentence reduction did not fit within any of the allowable categories set out in § 3582(c), “[t]he district court therefore lacked jurisdiction”); *United States v. Blackwell*, 81 F.3d 945, 947 (10th Cir. 1996) (“A district court is authorized to modify a Defendant's sentence only in specified instances where Congress has expressly granted the court jurisdiction to do so.”).

IT IS THEREFORE ORDERED that the application to proceed in forma pauperis [Dkt. No. 33] is GRANTED.

IT IS FURTHER ORDERED that the motion for downward departure from sentencing guidelines [Dkt. No. 32] is DENIED.

Dated this 19th day of December 2023.



JOHN F. HEIL, III
UNITED STATES DISTRICT COURT